

BILL LOCKYER, Attorney General
of the State of California
E. A. JONES III, State Bar No. 71375
Deputy Attorney General
ELAINE GYURKO
Senior Legal Analyst
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-4944
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. S-357

YEMI A. DECKON
1933 W. Arlington Street
Long Beach, California 90810

STATEMENT OF ISSUES

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about July 21, 2005, the Respiratory Care Board of California (Board) received an application for a Respiratory Care Practitioner License from Yemi A. Deckon (Respondent). On or about July 15, 2005, respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on November 21, 2005.

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless

1 otherwise indicated.

2 4. Section 3710 of the Code states: "The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3,
4 the Respiratory Care Practice Act]."

5 5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and
6 revoke licenses to practice respiratory care as provided in this chapter."

7 6. Section 3732, subdivision (b) of the Code states:
8 "The board may deny an application, or may order the issuance of a license
9 with terms and conditions, for any of the causes specified in this chapter for
10 suspension or revocation of a license, including, but not limited to, those causes
11 specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

12 7. Section 3750 of the Code states:
13 "The board may order the denial, suspension or revocation of, or the
14 imposition of probationary conditions upon, a license issued under this chapter, for
15 any of the following causes:

16 " . . .

17 "(d) Conviction of a crime that substantially relates to the qualifications,
18 functions, or duties of a respiratory care practitioner. The record of conviction or a
19 certified copy thereof shall be conclusive evidence of the conviction. . . ."

20 8. Section 3752 of the Code states:

21 "A plea or verdict of guilty or a conviction following a plea of nolo
22 contendere made to a charge of any offense which substantially relates to the
23 qualifications, functions, or duties of a respiratory care practitioner is deemed to be a
24 conviction within the meaning of this article. The board shall order the license
25 suspended or revoked, or may decline to issue a license, when the time for appeal
26 has elapsed, or the judgment of conviction has been affirmed on appeal or when an
27 order granting probation is made suspending the imposition of sentence, irrespective
28 of a subsequent order under Section 1203.4 of the Penal Code allowing the person

1 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
2 the verdict of guilty, or dismissing the accusation, information, or indictment.”

3 9. Section 3752.5 of the Code states:

4 “For purposes of Division 1.5 (commencing with Section 475), and this
5 chapter [the Respiratory Care Practice Act], a crime involving bodily injury or
6 attempted bodily injury shall be considered a crime substantially related to the
7 qualifications, functions, or duties of a respiratory care practitioner.”

8 COST RECOVERY

9 10. Section 3753.5, subdivision (a) of the Code states:

10 “In any order issued in resolution of a disciplinary proceeding before the
11 board, the board or the administrative law judge may direct any practitioner or
12 applicant found to have committed a violation or violations of law to pay to the
13 board a sum not to exceed the costs of the investigation and prosecution of the case.”

14 11. Section 3753.7 of the Code states:

15 “For purposes of the Respiratory Care Practice Act, costs of prosecution
16 shall include attorney general or other prosecuting attorney fees, expert witness fees,
17 and other administrative, filing, and service fees.”

18 12. Section 3753.1, subdivision (a) of the Code states:

19 “An administrative disciplinary decision imposing terms of probation may
20 include, among other things, a requirement that the licensee-probationer pay the
21 monetary costs associated with monitoring the probation.”

22 CAUSE FOR DENIAL OF APPLICATION

23 (Conviction of a Crime)

24 13. Respondent's application is subject to denial under Code sections
25 3750, subdivision (d), 3752, and 3752.5, in conjunction with section 3732, subdivision (b),
26 in that respondent was convicted of a crime substantially related to the qualifications,
27 functions and duties of a respiratory care practitioner. The circumstances are as follows:

1 A. On or about May 11, 2004, respondent and his spouse, who was
2 three and ½ months pregnant, were involved in an argument at their residence.
3 Respondent hit his spouse in her right cheek with a closed fist, and also hit her in the
4 neck area and kicked her in the stomach. The Long Beach police were called and
5 respondent ran out of his residence.

6 B. On May 13, 2004, a complaint was filed against respondent in a
7 criminal proceeding entitled *People v. Yemi A. Deckon*, in Superior Court, Los
8 Angeles County, Case No. 4LM04140. Respondent was charged with violating
9 Penal Code section 243(e)(1), battery against a spouse, a misdemeanor.

10 C. On May 13, 2004, respondent was convicted upon his plea of nolo
11 contendere to battery. He was placed on probation for three years, and was ordered
12 to serve 3 days in county jail (with credit for 3 days). He was ordered to pay fees
13 and assessments of \$155.00, a restitution fine of \$100.00, and \$400.00 in restitution
14 to the domestic violence fund. In addition, he was also ordered to perform 40 hours
15 of community service, complete a domestic violence program and donate \$200.00 to
16 a battered woman's shelter.

17 D. Respondent's conviction of battery, any willful and unlawful use of
18 force or violence upon the person of another, as more fully set forth above,
19 constitutes a conviction of a crime involving bodily injury or attempted bodily
20 injury, and therefore is substantially related to the qualifications, functions or duties
21 of a respiratory care practitioner pursuant to Code section 3752.5.

22
23
24
25
26
27 PRAYER

28 WHEREFORE, Complainant requests that a hearing be held on the matters

1 herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

2 1. Denying the application of Yemi A. Deckon for a Respiratory Care
3 Practitioner License;

4 2. Directing Yemi A. Deckon to pay the Respiratory Care Board the
5 costs of the investigation and enforcement of this case, and if placed on probation, the costs
6 of probation monitoring;

7 3. Taking such other and further action as deemed necessary and
8 proper.

9 DATED: March 2, 2006

10
11 Original signed by Liane Zimmerman for:
12 STEPHANIE NUNEZ
13 Executive Officer
14 Respiratory Care Board of California
15 Department of Consumer Affairs
16 State of California
17 Complainant
18
19
20
21
22
23
24
25
26
27
28